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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,360	07/18/2003	Ching-Cherng Lee	DCS-9176	5052
34500	7590	07/25/2006	EXAMINER	
DADE BEHRING INC. LEGAL DEPARTMENT 1717 DEERFIELD ROAD DEERFIELD, IL 60015			EL ARINI, ZEINAB	
			ART UNIT	PAPER NUMBER
			1746	

DATE MAILED: 07/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/623,360	<b>Applicant(s)</b> LEE ET AL.	
	<b>Examiner</b> Zeinab E. EL-Arini	<b>Art Unit</b> 1746	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 May 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 12-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/07/06 has been entered.
2. The amendment and remarks filed on 5/30/06 have been acknowledged and entered.

### ***Claim Rejections - 35 USC § 102***

The rejections under 35 U.S.C 102(b) and 102(e) stated in paper No. 093005 have been withdrawn in view of applicants' amendment.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-5 and 12-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1 and 12, "the identify" lacks antecedent basis. It is suggested that "the identify" be changed to read "an identity".

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (5,679,309) in combination with Sakagami (4,785,407) and Jordan (4,325,910).

Bell as discussed supra in paper No. 093005 discloses a method for cleansing a used reaction cuvette. The method comprises cleaning the used cuvette before a first group and second group of assays have been scheduled to be next performed in the cuvette, and cleaning the cuvette when a first group and second group of assays have been previously performed in the cuvette. See Fig. 5, col. 3, lines 32-58, col. 5, and col.10, lines 29-39. Bell further discloses that dependent upon the assay selected from the menu to be run on a particular sample and its assay sequence, washing may be vary from assay to assay. See col. 5, lines 21-26.

Bell as discussed supra does not teach, the assays (claim 2) and the discharging (claim 5), the number of cleansing operation (claims 4, 14) the drying (claims 3, 13). The step of examining the identity of assays, the

cuvette is cleansed by first series of cleansing operations, and a second different series of cleansing operations is inherent in Bell process. See col. 5, lines 21-26.

Sakagami discloses automatic chemical analyzer with selective removal reaction vessel. The reference discloses detecting the dirtiness level of the cuvette during cleaning, if it is larger than the threshold level, a washing agent liquid is poured in the cuvette. See col. 5, lines 14-32, 37-56, col. 6, lines 2-11, and Figs.4 and 6.

Jordan discloses a method of washing and drying the reaction vessel and the cuvette elements, and the suctioning or discharging step. See col. 12, lines 45-48, col. 13, lines 12-17, Fig. 4.

It would have been obvious for one skilled in the art to use the drying, the discharging taught by Jordan and the

detecting step taught by Sakagami in the Bell process to improve the cleaning process. The assays as claimed are inherent in Bell system. It would have been obvious for one skilled in the art to repeat the washing and rinsing to obtain optimum results. The examining and cleansing steps as claimed in claims 1 and 12 are inherent in Bell system.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1-5, and 12-14 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeinab E. EL-Arini whose telephone number is (571) 272-1301. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1746

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Zeinab E. EL-Arini*

Zeinab E. EL-Arini  
Primary Examiner  
Art Unit 1746

ZEE

07/12/06